

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
M2M ENTERPRISES, INC.)	File No. 0004092938
Application for New YG Station License)	
)	
DAVID BREMER)	File No. 0003952819
Application for New YG Station License)	
)	
SUMNER M. HANSEN)	
Applications for New YG Station Licenses)	File No. 0003953981, 0004236107
Administrative Update Application Concerning)	File No. 0003976386
Industrial/Business Pool Station WQKV329)	
)	
JAMES M. GILLIAM)	File No. 0003929564
Application for New YG Station License)	
)	
JEFFREY S. MILLER)	File No. 0003952399
Application for New YG Station License)	
)	
MR. RELIABLE COMPANY)	File No. 0003948967
Application for New IG Station License)	
)	
MARK LIDIKAY)	File No. 0003949145
Application for New YG Station License)	

ORDER AND ORDER ON RECONSIDERATION

Adopted: August 9, 2010

Released: August 9, 2010

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

1. This *Order and Order on Reconsideration* addresses petitions filed by National Science and Technology Network, Inc. (NSTN) to deny, or for reconsideration of the grant of, the above-captioned applications. In all of the petitions, NSTN argues that the applications should be denied on the grounds that the undisclosed real party in interest is Mobile Relay Associates (MRA). For the reasons set forth below, we deny NSTN's petitions.

2. Between August 2009 and May 2010, M2M Enterprises, Inc. (M2M), David Bremer (Bremer), James M. Gilliam (Gilliam), Jeffrey S. Miller (Miller), Mr. Reliable Company (Mr. Reliable), and Mark Lidikay (Lidikay) each filed an application for a new Industrial/Business Pool station utilizing 470-512 MHz band frequencies at one or more locations in southern California, and Sumner M. Hansen (Hansen) filed two such applications.¹ NSTN filed petitions to deny the applications.² In September

¹ The applications filed by Mr. Reliable and Lidikay were dismissed as defective, and are no longer at issue. See Notices of Dismissal 4902273 (Sept. 10, 2009) (dismissing Mr. Reliable application, File No. 0003948967) and 4902285 (Sept. 10, 2009) (dismissing Lidikay application, File No. 0003949145). The other applications were returned to the applicants for additional information, and subsequently amended. See Notices of Return 4902255 (Sept. 10, 2009) (returning Miller application, File No. 0003952399), 4902406 (Sept. 11, 2009) (returning Gilliam application, File No. 0003929654), 4903418 (returning first Hansen application, File No. 0003953981), 4905472 (Sept. 22, 2009) (returning Bremer application, File No. 0003952819), 4939750 and 4941471 (Jan. 20 and 26, 2010) (continued....)

2009, a separate Hansen application for a 470-512 MHz band station in southern California was granted,³ and then Hansen updated the license to correct his address.⁴ NSTN filed a petition for reconsideration of the grant of the administrative update.⁵

3. NSTN argues that MRA is the undisclosed real party in interest in all of the above-captioned applications, and that the applications should be denied because the applicants have made misrepresentations and lacked candor in dealing with the Commission.⁶ NSTN also requests an inquiry into MRA's character qualifications to remain a Commission licensee.⁷ NSTN offers the following as evidence that MRA is the real party in interest: (1) the applicants all use the same licensing consultant, who is frequently employed by MRA; and (2) a site requested in most of the applications is owned by MRA's principal.⁸ The applicants and MRA acknowledge that they are working together to create a wide-area 470-512 MHz band system, but deny that MRA is the undisclosed real party in interest.⁹

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(both returning M2M application, File No. 0004092938), and 4978142 and 4980898 (May 11 and 20, 2010) (both returning second Hansen application, File No. 0004236107).

² NSTN filed three separate petitions to deny, as follows:

First, it filed a petition to deny the applications filed by Bremer, Gilliam, Miller, Mr. Reliable, and Lidikay, and the first application filed by Hansen. Petition to Dismiss or Deny Application and Request for 308(b) Inquiry Against Mobile Relay Associates and for Enforcement Action (filed Sept. 18, 2009) (First Petition). Bremer, Gilliam, Miller, Mr. Reliable, Lidikay, Hansen, and MRA filed a joint opposition. Opposition to "Petition to Dismiss or Deny Application and Request for 308(b) Inquiry Against Mobile Relay Associates and for Enforcement Action" (filed Sept. 30, 2009) (Opposition). NSTN filed a reply. Reply to Opposition to Petition to Dismiss or Deny Application and Request for 308(b) Inquiry Against Mobile Relay Associates and for Enforcement Action (filed October 7, 2009). We will not address herein matters raised in the reply that are beyond those addressed in the opposition. See 47 C.F.R. § 1.45.

NSTN then filed a petition to deny the application filed by M2M. Petition to Dismiss or Deny Application and Request for 308(b) Inquiry Against Mobile Relay Associates and for Enforcement Action (filed Feb. 2, 2010); Supplement to Petition to Dismiss or Deny (filed Feb. 4, 2010). This petition incorporates the First Petition by reference. M2M filed an opposition. Opposition to "Petition to Dismiss or Deny Application and Request for 308(b) Inquiry Against Mobile Relay Associates and for Enforcement Action" (filed Feb. 9, 2010).

NSTN then filed a petition to deny the second application filed by Hansen. Petition to Dismiss or Deny Application (filed May 20, 2010). This petition also incorporates the First Petition by reference. Hansen filed an opposition. Opposition to Petition to Dismiss or Deny Application (filed June 4, 2010). NSTN filed a reply. Reply to Opposition (filed June 8, 2010). Hansen later filed a request for leave to file a supplement. Request for Leave to Supplement (filed June 22, 2010). NSTN filed an opposition. Opposition to Sumner Hansen's Request for Leave to Supplement (filed June 23, 2010). Hansen filed a reply. Reply to Opposition to Request for Leave for Supplement (filed June 28, 2010). Because the information in the proffered supplement duplicates information that was placed into the record in response to the return notices, we do not find it necessary to address Hansen's request.

³ File No. 0003965088.

⁴ File No. 0003976386.

⁵ Petition for Reconsideration of Grant of License (filed Oct. 13, 2009). This petition also incorporates the First Petition by reference. Hansen filed an opposition. Opposition to Petition for Reconsideration (filed Oct. 26, 2009).

⁶ See First Petition at 2.

⁷ See *id.* at 2. NSTN also makes allegations against MRA that are unrelated to the instant applications. See *id.* at 4. We will not address such matters in this proceeding.

⁸ See *id.* at 3. NSTN also asserts that "many of the frequencies applied for on these applications duplicate one another. The purpose of these duplicative applications is to permit these frequencies to be secured, even if one or
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4. We conclude that NSTN's allegations do not support its claim of a scheme by MRA to deceive the Commission. That the applicants are coordinating their applications with MRA does not demonstrate that MRA is the real party in interest, for NSTN presents no evidence that MRA will be in a position to exercise actual or potential control over the applicants' stations.¹⁰ Neither use of a common license consultant nor co-location constitutes such evidence.

5. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i), 303(r), and 309(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), 309(d), and Section 1.939 of the Commission's Rules, 47 C.F.R. § 1.939, the petitions to dismiss or deny filed by National Science and Technology Network, Inc. on September 18, 2009, February 2, 2010, and May 20, 2010, ARE DENIED.

6. IT US FURTHER ORDERED that, pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, the petition for reconsideration filed on October 13, 2009 by National Science and Technology Network, Inc. IS DENIED.

7. IT IS FURTHER ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), applications File Nos. 0004092938, 0003952819, 0003953981, 0003929564, 0003952399, and 0004236107 SHALL BE PROCESSED in accordance with this *Order and Order on Reconsideration* and the Commission's Rules.

8. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Scot Stone
Deputy Chief, Mobility Division
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more of the applications is dismissed." *Id.* Our review of the applications, however, found no duplicated base-station frequencies.

⁹ See Opposition at 4-5.

¹⁰ See Michael McDermott d/b/a McDermott Communications Co., *Memorandum Opinion and Order*, 11 FCC Rcd 5750, 5753 ¶¶ 9-10 (1996).